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Barry H. Schwab

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GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C

PO BOX 7021

TROY, MI 48007-7021

EXAMINER

CHAWAN, VIJAY B

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/877,628
Filing Date: June 08, 2001
Appellant(s): SCHWAB ET AL.

MAILED

FEB 28 2007

Technology Center 2600

John G. Posa
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/18/2006 appealing from the Office action mailed 07/12/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,802,314	TULLIS et al.	9-1998
5,111,409	GASPER et al.	5-1992

6,035,273

SPIES et al.

3-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tullis et al (5,802,314) in view of Gasper (5,111,409).

As per claim 1, Tullis et al., teach a method of enhancing an electronic communication, comprising the steps of:

transmitting and receiving a message or file having a content (Col.2, lines 51-60);

and,

storing, at the location of a recipient, enhancement information (Col.16, lines 61-65).

Tullis et al., while teaching storing, at the location of a recipient, enhancement information, do not specifically teach storing, at the location of a recipient, enhancement information enabling the recipient to visualize the sender (Col.16, lines 61-65). Gasper et al., do teach storing audio information as well as video information (Fig.1). Therefore, it would have been obvious to one with ordinary skill in the art at the time of invention to store the image information as taught by Gasper et al., in the method of transmitting audio information of Tullis et al., would advantageously store at the location of the recipient audio message along with the corresponding video information, because this would enable the recipient to recall at a future date the message according to user's preference.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tullis et al (5,802,314) in view of Spies (6,035,273).

Tullis et al., according to claims 5 and 6, teach a method of enhancing an electronic communication, comprising the steps of:

transmitting and receiving a message or file having a content (Col.2,lines 51-60);
and,

storing, at the location of a recipient, enhancement information (Col.16, lines 61-65). However, Tullis et al., do not specifically teach the method of claim 6, wherein the enhancement information enables the recipient to visualize the sender or listen to the content of a message. Spies teaches the recipient able to listen to the content of the message in sender's voice (Col.2, lines 3-28), and wherein the enhancement

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information includes phonemes enabling the recipient to listen to the content in a synthesized voice of the sender (Col.2, lines 3-28, when a speaker's speech profile is created, the speech data extracted includes the phonemic representation of the speaker or sender's voice). Therefore it would have been obvious to one with ordinary skill in the art at the time of invention to use the method of profiling a speaker's voice (in this case, called party and the calling party profiles), as taught by Spies in the method of Tullis et al., because, this would effectively reduce the bandwidth requirements in the field video telephony applications (Col.1, lines 44-65).

(10) Response to Argument

4. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Applicant argues that the references (Tullis et al., in view of Spies et al.) do not teach the method of claim 6. Specifically applicant argues that there is no mention of "phonemes" in either of references. Examiner would like to point out that the "phonemes" are basic units of speech, and any person with ordinary skill in the art would readily recognize that when

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speech information is extracted to be transmitted, usually speech is converted into phonemic representation of speech data before transmitting the audio file or data.


In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

 2/26/07
Vijay B. Chawan
Primary Examiner, AU 2626
VIJAY CHAWAN
PRIMARY EXAMINER

Conferees:

Vijay B. Chawan, Primary Examiner, AU2626

Richemond Dorvil, SPE, AU 2626

Tālisvaldis I. Smits, Trainer/Primary Examiner, AU 2626

